

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JOSE GOMEZ,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 1:20-cv-02422-LPH-DML
)	
WESLEY BEACHY and K and K)	
TRUCKING, INC.)	
)	
Defendants.)	

MOTION TO REMAND THE ACTION TO STATE COURT

Comes now the plaintiff, by counsel, Ken Nunn Law Office, and pursuant to 28 U.S. Code Section 1447, moves to remand this action to State Court on the grounds as follows:

1. Plaintiff has moved the Court for leave to amend Complaint for Damages.
2. As the new defendants joined in the Plaintiff's Amended Complaint are citizens of the same state as the plaintiff, diversity jurisdiction and therefore subject-matter jurisdiction no longer exists. Plaintiff requests that this Court remand this action to state court jurisdiction.
3. Pursuant to *Schur v. L.A. Weight Loss Centers, Inc.*, 577 F.3d 752 (7th Cir. 2009), the Plaintiff's motive in joining these parties was not to defeat diversity jurisdiction, but rather to add non-parties named as an affirmative defense by Defendants Wesley Beachy and K and K Trucking, Inc. This motion to amend was made timely after receiving notice of the non-parties. Additionally, the Plaintiff will be harmed by not allowing the named non-parties to be added to the action as a portion of fault allocated to those non-parties would be unrecoverable in the present action.

WHEREFORE, plaintiff prays that this Court grant this motion, remand the action to

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state court, and for all other proper relief in the premises.

s/ Ryan D. Etter
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CERTIFICATE OF SERVICE

I affirm, under the penalties of perjury, that on or about November 9, 2020, service of a true and complete copy of the above and foregoing pleading or paper was filed through the Court's EFC system.

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